## REMARKS

In the Office Action, mailed December 24, 2003, the Examiner rejects claims 8, 10, 11, 13, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Potuschak (*Nucl. Acids Res.* 21:3229-3243, 1993), Mikkelsen (*Proc. Natl. Acad. Sci., USA,* 96:6155-6160, 1999), or Schroeder (*EMBO J.,* 19(1): 1-9, 2000), in view of Spitzfaden (*J. Mol. Biol.* 295:105-115, 2000). The Examiner states that it would have been obvious to identify an antibiotic agent by seeing if it decreased the activity of RNase P on a RNase P substrate in view of the references above.

In addition to the arguments provided in the previous reply to Office Action, filed on June 24, 2004, applicants submit that this obviousness rejection should be withdrawn because Spitzfaden cannot constitute prior art to the present claims under 35 U.S.C. § 102(a).

The obviousness rejection hinges on the combination of Potuschak, Mikkelsen or Schroeder, with Spitzfaden. However, the present invention was conceived of prior to the January 7, 2000 publication date of Spitzfaden, and was diligently reduced to practice from a date prior to January 7, 2000 up to the filing of the application on March 1, 2000. Therefore, Spitzfaden cannot constitute prior art to the present claims under 35 U.S.C. § 102(a). As stated in the attached Declaration of Dr. Paul Eder, the method of identifying an antibiotic agent by screening for compounds that inhibit the enzymatic activity of an RNase P holoenzyme having a polypeptide with an RNase P consensus sequence, as described in the present application, was conceived of in the United States prior to

January 7, 2000, and was diligently reduced to practice. Exhibit 1 of the Declaration of Dr. Eder is a notebook entry that documents the design and development of an assay to measure RNase P activity in a 96-well plate format. This assay was designed for use as a screening assay for compounds that inhibit RNase P activity. On pages 121 and 122 of the notebook entry, there is a description of the use of this assay to test the inhibitory effects of neomycin B, a known antibiotic. This notebook entry documents that a method of identifying an antibiotic agent by screening for compounds that inhibit the enzymatic activity of an RNase P holoenzyme having a polypeptide with an RNase P consensus sequence, as described in the present application, was conceived of prior to January 7, 2000 and was diligently reduced to practice from prior to January 7, 2000 to the filing of the application on March 1, 2000.

Therefore, while applicants still maintain the arguments presented in the previously submitted Reply to Office Action are sufficient, the obviousness rejection should be withdrawn for this additional reason.

## CONCLUSION

In summary, applicants submit that the claims are now in condition for allowance and such action is respectfully requested.

No fee is believed due, but if there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

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Kristina Bicker-Brady, Ph.D., P.C.
Reg. No. 39,109

Clark & Elbing LLP
101 Federal Street
Boston, MA 02110
Telephone: 617-428-0200
Facsimile: 617-428-7045